

## Message Text

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65

ORIGIN OPIC-06

INFO OCT-01 NEA-10 ISO-00 EB-07 AID-05 L-03 IGA-02 AGR-10

COME-00 SS-15 NSC-05 JUSE-00 /064 R

DRAFTED BY OPIC/GC:LLUCERO

APPROVED BY EB/IFD:RJSMITH

OPIC/GC:CHUNT

AID/GC:LGRANT(PHONE)

STATE/L:KEMALMBORG (PHONE)

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P 292313Z DEC 75

FM SECSTATE WASHDC

TO AMEMBASSY NEW DELHI PRIORITY

UNCLAS STATE 303827

E.O. 11652: N/A

TAGS:EFIN

SUBJECT: SHAMA FORGE - OPIC VS. UNION BANK  
(SUIT NO. 1006 OF 1974

REFERENCE: NEW DELHI 16755

1. AID/GC CONCURS IN RLA HAGER APPEARING AS WITNESS ON BEHALF OF OPIC IN SUBJECT LITIGATION IN BOMBAY HIGH COURT ON JANUARY 19, 1976 AND IN OTHER APPROPRIATE COURTS IN INDIA AND ON OTHER APPROPRIATE DATES TO TESTIFY AS TO OPIC'S RIGHT TO SUE AND, WITHOUT LIMITATION, (EXCEPTING CLASSIFIED MATTERS) AS TO SUCH OTHER MATTERS AS MAY BE REQUESTED BY OPIC (AND PROPER CROSS-EXAMINATION) IN SUCH LITIGATION.

2. BY THIS CABLE, STATE/L CONSENTS TO WAIVER OF DIPLOMATIC IMMUNITY AS REQUIRED BY 2 FAM 221.5 WHICH WILL ENABLE RLA HAGER TO TESTIFY AS REFERRED TO IN PAR 1 ABOVE.

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3. WITH RESPECT TO OPIC'S STANDING TO SUE, HAGER MAY TESTIFY, AT HIS DISCRETION, THAT:

(A) THE LENDER AT ALL TIMES WAS THE UNITED STATES OF AMERICA AND THAT THE IDENTITY OF THE LENDER HAS NOT ALTERED BY REASON OF THE CHANGES WHICH TOOK PLACE IN THE ADMINISTERING AGENCIES BEING AID AT ONE TIME AND OPIC AT ANOTHER;

(B) UNDER THE PROVISION OF THE UNITED STATES CONSTITUTION, THE RIGHTS OF THE USG ARE EXERCISED THROUGH AGENCIES THEREOF;

(C) BY VIRTUE OF SECTION 104(E) OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT, 1954, AUTHORITY WAS CONFERRED UPON THE PRESIDENT OF THE USA TO FINANCE LOANS SUCH AS WAS MADE TO SHAMA FORGE;

(D) THE PRESIDENT OF THE USA IS THE CHIEF EXECUTIVE AUTHORITY OF THE USG AND IS AUTHORIZED TO ISSUE EXECUTIVE ORDERS FOR THE ADMINISTRATION OF VARIOUS STATUTES;

(E) BY SECTION 4(D)(4) OF THE EXECUTIVE ORDER NO. 10900, IT WAS ORDER THAT THE PURPOSES DESCRIBED IN SECTION 104(E) OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT, 1954, WOULD BE DISCHARGED BY THE DEPARTMENT OF STATE;

(F) BY DELEGATION OF AUTHORITY NO. 104, THE SECRETARY OF STATE AUTHORIZED THE ESTABLISHMENT OF AID AND THE PERFORMANCE BY THE ADMINISTRATOR OF AID OF THOSE FUNCTIONS WHICH WERE DELEGATED TO THE SECRETARY OF STATE BY EXECUTIVE ORDER NO. 10900 WITH POWER TO REDELEGATE PART OR ALL OF SUCH AUTHORITY;

(G) BY DELEGATION OF AUTHORITY NO. 91, AID AUTHORIZED OPIC TO MAKE COLLECTIONS UNDER CERTAIN LOANS MADE BY AID PURSUANT TO DELEGATION OF AUTHORITY NO. 104, INCLUDING THE SUBJECT LOAN TO SHAMA FORGE;  
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(H) OPIC IS AN AGENCY OF THE GOVERNMENT OF THE USA, SECTION 231 OF TITLE IV OF THE FOREIGN ASSISTANCE ACT

OF 1961 AS AMENDED; AND

(I) OPIC MAY SUE AND BE SUED IN ITS CORPORATE NAME, SECTION 239 OF TITLE IV OF THE FOREIGN ASSISTANCE

ACT OF 1961, AS AMENDED.

4. HAGER MAY ALSO TESTIFY AS TO SUCH OTHER MATTERS IN SUCH LITIGATION AS APPEARS APPROPRIATE TO HIM OR AS OPIC MAY REQUEST.

5. OPIC UNDERSTANDS THAT MISSION NOW HAS ALL RELEVANT LEGAL DOCUMENTS RELATED TO POSITION SET FORTH IN PAR 3(A)-(I) ABOVE. IF NOT PLEASE ADVISE SO THAT WE MAY SEND.

6. PLEASE ADVISE IF OPIC CAN BE OF ANY FURTHER ASSISTANCE IN PROVIDING GUIDANCE FOR HAGER TESTIMONY ON OPIC'S RIGHT TO SUE. ROBINSON

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## Message Attributes

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**Current Classification:** UNCLASSIFIED  
**Concepts:** LITIGATION  
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**Decaption Date:** 01 JAN 1960  
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